

OFFICE OF THE STATE ATTORNEY, TENTH JUDICIAL CIRCUIT
State Attorney Jerry Hill

Polk, Highlands, and Hardee Counties

Main Office

255 North Broadway Avenue, 2nd Floor
Drawer SA, P.O. Box 9000
Bartow, Florida 33831-9000 • (863) 534-4800
www.sao10.com



Lakeland Branch Office

930 East Parker Street, Suite 238
Lakeland, Florida 33801 • (863) 802-6240

Winter Haven Branch Office

3425 Lake Alfred Road 9, Gill Jones Plaza
Winter Haven, Florida 33881 • (863) 401-2477

June 17, 2013

Chief Lisa Womack
Lakeland Police Department
219 N. Massachusetts Ave.
Lakeland, FL 33801

RE: Lakeland Police Department Traffic Stops

Dear Chief Womack:

Attached is a report detailing an investigation which was initiated by our office in response to a citizen's letter to The Ledger. The conclusions of this report should be alarming to you as chief and to Lakeland citizens. Clearly, there is a serious lack of training and supervision in the area of traffic stops. This report details mistakes made by your department during the traffic stop, which, according to your officers, violated Lakeland Police Department Policy. Additionally, the actions of your officer violated Florida Search and Seizure Law. One procedure however, requires special mention.

A male officer conducted a traffic stop on a female driver. Without any reason to suspect the presence of drugs, the officer instructed the female driver to exit the vehicle, lift her shirt from her stomach, and pull her bra away from her body and shake it. Not satisfied with the female driver's performance, the officer instructed the driver to repeat the procedure a second time. While the officer's actions did not rise to the level of criminal misconduct, his actions raise most serious concerns.

This method of search is not taught at the law enforcement training academy at Polk State College. The administration there could find no written mention in any recognized instructional material authorized by the State of Florida of such a search, performed by officers upon a female suspect.

This highly questionable search method is not only demeaning, but is ineffective and possibly dangerous. Actions by law enforcement officers, requiring females to lift their shirt, pull their bra from their body and shake, without any articulable suspicion, is offensive. Further,

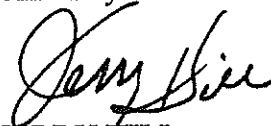
if the justification for this type of search is to prevent concealment of drugs or dangerous weapons, then the method employed is ineffective.

Concern for the safety of law enforcement officers in the line of duty is of utmost importance. If a female suspect is truly concealing an item inside her bra, requiring that suspect to grab her own bra and shake it would create the opportunity for that suspect to grab the object, thereby preventing it from falling out. If a female suspect is concealing a weapon inside her bra, such as a small gun, requiring that suspect to reach to her bra and grab such an item could be dangerous to the officer. This method of searching is not acceptable. Officers are trained in proper search methods that would reveal the existence of a hidden weapon.

Even more alarming, the officer's conduct in this case is not an isolated incident, but appears to be accepted practice. Two law enforcement officers indicated that the technique employed in Lakeland Police Department case number LPD13-10010 is a common practice used among officers employed by the Lakeland Police Department. Further, this type of search has been documented before. In case number LPD13-9279, which is a DUI investigation, the arresting officer's own report states the following: "While under observation for the breath test I had the defendant face the camera in the Lakeland Police Department Book in area. I had her grab the front of her bra through her shirt and shake it so that if contraband was hidden inside it would fall out." The report continues, "defendant stated she would have me fired for sexual harassment." Even a suspect who provided breath samples of 0.198 and 0.188 was able to grasp the impropriety and the demeaning nature of this type of search.

I hope that these training and supervision deficiencies can soon be corrected. Continued use of these practices will have an adverse impact on the case involved.

Sincerely



JERRY HILL
State Attorney

OFFICE OF THE STATE ATTORNEY, TENTH JUDICIAL CIRCUIT
State Attorney Jerry Hill

Polk, Highlands, and Hardee Counties

Main Office

255 North Broadway Avenue, 2nd Floor
Drawer SA, P.O. Box 9000
Bartow, Florida 33831-9000 • (863) 534-4800
www.sao10.com



Lakeland Branch Office
930 East Parker Street, Suite 238
Lakeland, Florida 33801 • (863) 802-6240

Winter Haven Branch Office
3425 Lake Alfred Road 9, Gill Jones Plaza
Winter Haven, Florida 33881 • (863) 401-2477

INVESTIGATIVE REPORT

Subject of Report: LPD 05/21/13 Traffic Stop
Case #: FA13-001282
Agency: Office of the State Attorney, 10th Judicial Circuit
Investigator: Michael Brown

ASA: Brad Copley
Agency Case #: LPD13-10010
Date: 6/14/2013
Original

Synopsis of Incident:

On 06/02/2013, a citizen opinion letter was written by retired Attorney at Law Richard J. Wiley and was printed in the Lakeland Ledger on the Editorial Page. The letter was titled "Young Woman Details Sexual Impropriety in Lakeland Traffic Stop". Mr. Wiley stated that a female acquaintance had contacted him and relayed behavior that she had been subjected to during a recent traffic stop conducted by Officers of the Lakeland Police Department. He stated that the traffic stop had occurred on 05/21/2013 at approximately 11:00 p.m. He stated that his acquaintance was pulled over due to a front headlight being out in the car she was driving. The letter described an illegal search of the vehicle, questionable search techniques, and verbal intimidation used to attempt to recover illegal contraband committed by one of the LPD officers. The letter stated that no illegal contraband was found and that the LPD officer allowed her to leave, stating he had "scared her enough and she could go home".

As a result of the described incident in the Lakeland Ledger, the State Attorney's Office opened an official investigation. Richard Wiley was contacted by the SAO to obtain the identity of the female acquaintance he referenced in this letter to the Lakeland Ledger. He advised that Zoe Brugger and Larry Fields were the two occupants of the vehicle which was stopped that night, with Ms. Brugger being the driver.

Victim Information:

Zoe Brugger
1424 Handley Blvd
Lakeland, FL 33803
White Female
D.O.B. – 01/28/1985
Phone – (863) 529-1068

Larry Joseph Fields
1424 Handley Blvd
Lakeland, FL 33803
White Male
D.O.B. – 09/14/1977
Phone – (863) 529-1068

Witness Information:

Richard John Wiley
1820 Baltusrol Ct.
Lakeland, FL 33803
White Male
D.O.B. – 06/15/1942
Phone – (863) 862- 9423

Jeremy Adam Williams
219 Massachusetts Ave.
Lakeland, FL 33801
White Male
D.O.B. – [REDACTED]
Phone – (863) 834-6900

Angela Clark
1424 Handley Blvd
Lakeland, FL 33803
White Female
D.O.B. – 10/09/1984
Phone – (863) 397-9970

Chis Trimboth
1424 Handley Blvd
Lakeland, FL 33803
White Male
D.O.B. – 08/28/1982
Phone - (863) 602-1168

Guy Michael Brugger
1424 Handley Blvd
Lakeland, FL 33803
White Male
D.O.B. – 02/16/1950

Larry Barrett
400 West Beacon St, Apt. 201
Lakeland, FL 33803
White Male
Phone – (863) 844-2198

Suspect Information:

Dustin James Fetz
219 Massachusetts Ave.
Lakeland, FL 33801
White Male
D.O.B. – [REDACTED]
SS# - [REDACTED]
DL # - [REDACTED]

Complaint Information:

On 06/05/2013 at approximately 9:30 a.m., Zoe Brugger and Larry Fields came to the State Attorney’s Office to file a formal complaint regarding the traffic stop that was conducted by Lakeland Police Officer Dustin Fetz and another LPD Officer, acting as back-up, on 05/21/2013. The complainants met with State Attorney Jerry Hill, ASA Brad Copley, and Investigator Mike Brown. Ms. Brugger advised that she had also filed an official complaint with the Lakeland Police Department’s Office of Professional Standards on 06/03/2013.

Zoe Brugger and Larry Fields were placed under oath, and a sworn statement was obtained regarding the traffic stop incident. They also provided the State Attorney’s Office with a copy of the written complaint which had been given to the Lakeland Police Department. The following is a summary of what they advised:

- Both Zoe Brugger and Larry Fields provided general background information regarding the history of their relationship, residency, education, employment, and prior traffic & criminal charges.
- Zoe Brugger and Larry Fields are in a relationship and live together. Ms. Brugger just gave birth to their baby on 05/03/2013.
- Ms. Brugger works at Mimi's Café and Larry works at Burger 21.
- Mr. Fields relies on others for transportation as his Driver's License is suspended due civil and criminal traffic infractions.
- Zoe Brugger's Driver's License had been suspended and cancelled for previously failing to pay a traffic citation in Miami Dade County.
- On 03/15/2013 the citation fee was paid and Zoe Brugger was issued a D6 Clearance from the Miami-Dade Clerk of Courts.
- This D6 Clearance was to be provided to the DHSMV in order for Zoe Brugger's Driver's License to be reinstated.
- Ms. Brugger had not had the money to pay the DHSMV for the reinstatement due to just having a baby.
- Ms. Brugger and Mr. Fields live with two roommates, Angela Clark & Chis Trimbath, and her father Guy Brugger who is their live in baby sitter.
- On the evening of 05/21/2013, Zoe Brugger borrowed Angela Clark's vehicle to go pick up Larry Fields from Burger 21 as his work shift ended.
- After dropping off another co-worker of Mr. Fields, the two were pulled over at the Manor House Luxury Apartments at 400 W. Beacon St., Lakeland, FL. by Lakeland Police Officer Dustin Fetz #211.
- Ms. Brugger estimated the time of the traffic stop to be between 11:10 p.m. and 11:20 p.m.
- Officer Fetz approached the vehicle and asked for her Driver's License and the vehicle's registration.
- Ms. Brugger provided Officer Fetz with her D6 Clearance and the vehicle registration.
- Officer Fetz asked if they had anything illegal in the vehicle. Ms. Brugger and Mr. Fields both responded "no".
- Officer Fetz asked them for consent to search the vehicle. They both stated they didn't have anything illegal, but explained that the vehicle belonged to their roommate, Angela Clark, and they had just borrowed it in order to pick Mr. Fields up from work.
- Both Ms. Brugger and Mr. Fields adamantly told Officer Fetz that he did not have permission to search the car as he persisted to ask for consent to conduct a search.
- At this point Ms. Brugger believed that Officer Fetz' demeanor changed towards them, and he began "treating them like criminals".
- During this conversation another LPD officer, later identified as Officer Jeremy Williams, responded to the scene as back-up. Officer Williams stood beside the front passenger door in a position where he was observing Larry Fields.
- Mr. Fields recalled seeing some people watching over on the sidewalk in front of Building 200 (possibly a resident of the apartment complex).
- Ms. Brugger recalled Officer Fetz telling Mr. Fields that he was talking to her. She believed he was agitated that Mr. Fields was telling him that he did not have permission to search the car. At this point Ms. Brugger recalled being asked to exit the vehicle.

- Officer Fetz escorted Ms. Brugger to a position behind their car and in front of the patrol car. He asked her why he couldn't search the vehicle. She again told him that she did not feel comfortable with him searching the vehicle that did not belong to her. Officer Fetz told her that a PCSO K-9 Unit was on the way to find their drugs, and that she should just allow him to search the vehicle. She again told him "no".
- Officer Fetz asked Ms. Brugger if she had drugs on her person. She responded no.
- Officer Fetz requested Ms. Brugger to turn her jean pockets inside out. He then requested her to pull her shirt up, pull her bra out from her breasts, and to shake.
- Being very scared and not having anything to hide, Ms. Brugger complied with his request.
- Officer Fetz did not feel that Ms. Brugger had sufficiently performed the bra stretching technique as he instructed. Officer Fetz then had her do it again, but told her to flip the bottom of the bra out this time. Ms. Brugger complied with his instructions again.
- Ms. Brugger said she felt very threatened. She didn't want to perform the acts, but she just wanted to get home to her baby. She didn't get the impression that his request was a sexual thing. She believed he was on a power trip and had it in his mind that they had drugs.
- Ms. Brugger was instructed to sit on the curb side as Officer Fetz went over to run Larry Field's identification and search him.
- Mr. Fields was pulled out the vehicle by Officer Fetz.
- He didn't recall the exact dialogue, but he felt it was possible that Officer Fetz asked for permission to search his pockets and wallet. If so, he would have granted it.
- Prior to the search of his pockets and wallet, Mr. Fields advised Officer Fetz that he couldn't raise his left arm very high as a result of having recently dislocated his shoulder.
- He complied fully with the officer's request because he didn't have anything to hide. No drugs or illegal contraband were found.
- Mr. Fields was then escorted over to where Ms. Brugger was sitting. He was told to sit on the curb beside her. Mr. Fields complied.
- Both officers then began looking inside the passenger side of the vehicle.
- Officer Fetz came over and said that he knew they had drugs in the vehicle and persisted to ask for permission to search the vehicle.
- As a result of the continued verbal pressure and wanting to just get home to her baby, Ms. Brugger gave in and told Officer Fetz he could search the car.
- Ms. Brugger stated that before Officer Fetz began to search the she changed her mind. Ms. Brugger told Officer Fetz that she had changed her mind and that he could not search the car. She said this when he and Officer Williams were both standing in close proximity to her.
- Ms. Brugger stated that Officer Fetz just looked at her and ignored her statement and began searching the car.
- Ms. Brugger was very upset and was crying.
- While Officer Fetz was inside the car she just kept yelling out for him to "stop searching the car". She continued to state the she was not giving him permission.
- Despite Ms. Brugger's continued refusal and protest of the search, Officer Fetz searched the entire cab of the vehicle for approximately ten minutes.

- Upon not finding anything during the search, Officer Fetz came back and instructed Larry Fields to return to the vehicle and sit down.
- Officer Fetz then returned to Ms. Brugger and told her that he was going to take her to the Bartow Jail because she did not have a DL. He told her that he would put cuffs on her later because they are very tight. He also told her that they have a body x-ray machine at the jail that would be able to see her drugs and contraband hidden “in there”. Ms. Brugger stated that Officer Fetz was referring to the inside of her vagina.
- Ms. Brugger became increasingly emotional telling Officer Fetz that she didn’t have any drugs and that she had a newborn baby at home that she needed to get back to.
- Ms. Brugger yelled out to Larry Fields and told him that they were going to take her to jail and to call her mom and roommate.
- Mr. Fields then called Brugger’s mom and roommate Angela Clark to tell them what was happening.
- Officer Fetz left Ms. Brugger sitting on the curb crying while he sat in his car for a period of time. Upon Officer Fetz returning, he said “I’m done scaring you and now you can go home.”
- Officer Fetz told Ms. Brugger that he had pulled her over for a headlight that was out. He gave her a criminal uniform traffic citation for No Valid DL with a court date of June 18, 2013.
- Officer Fetz then told Ms. Brugger to park the car and have somebody else to come and pick it up.
- Ms. Brugger estimated that the entire traffic stop lasted somewhere between 45 minutes to an hour.

At the conclusion of the meeting, it was determined that the incident required further investigation to determine if a criminal law violation was committed by Officer Dustin Fetz during the traffic stop. Mr. Hill assigned me to head the investigation, and assigned ASA Brad Copley as the prosecutor.

Investigative Actions:

An Investigative Subpoena was prepared commanding the Lakeland Police Department to immediately turn over all information pertaining to the traffic stop and arrest of Zoe Brugger. Investigator Beverly Cone served the subpoena on Asst. Chief Mike Link on 06/05/2013 at 12:45 p.m.

Investigator Cone remained at LPD until the following information was obtained and turned over to her custody: calls for service report, details history report from CAD (#P131410226), Citation 4066-HAR X, Screen Shot of Tiburon Screen showing no records found for Report 13-10010, EIR Routing Schedule, EIR (Chief Womack ordering investigation on 06/03/2013), Notice of Investigation for Officer Fetz, Notice of Investigation for Officer Williams, Print out of Discipline & Commendations for Officer Fetz, Print out of Discipline & Commendations for Officer Williams, Complainant Envelope (received on 06/05/2013 at approximately 1430-1440 hours), Complaint (signed on 06/05/2013 at 1520 hours), Master Name Inquiry on Zoe Brugger from TeamLPD database, CD with Audio from 05/21/2013 2230 hours to 05/21/2013 0100 hours, DVD with no Audio (no Audio captured) from Fetz’ vehicle.

On the afternoon of 06/05/2013, I responded to 1424 Handley Blvd, Lakeland, FL and made contact with victim Larry Fields. Mr. Fields identified the vehicle in which he and Zoe Brugger were pulled over in on the night of 05/21/2013. It was a Beige Toyota 4 Door with FL Tag O36 HTZ attached. Photographs were taken of the interior and exterior of the vehicle.

While at the residence I made contact with Guy Brugger, Angela Clark, and Chris Trimbath to obtain statements. Each advised that they were at the residence when Larry Fields called and advised that LPD officers were about to arrest Zoe Brugger. They estimated this call to be close to midnight. Chris Trimbath and Angela Clark immediately left and responded to the scene while Guy Brugger stayed at home with the baby. Ms. Clark and Mr. Trimbath stated that when they arrived at the scene the LPD officers were already gone. Ms. Clark drove Zoe Brugger home in her car, as Mr. Trimbath drove Larry Fields home in his car. Guy Brugger, Angela Clark and Chris Trimbath all advised me of the story that they were told by Zoe Brugger and Larry Fields regarding the traffic stop that evening. The information was consistent with the sworn statement which was given by Ms. Clark and Mr. Fields to the SAO.

Larry Fields then accompanied me to the Manor House Luxury Apartments at 400 W. Beacon St., Lakeland, FL. This is the location where Officer Dustin Fetz conducted the traffic stop on the evening of 05/21/2013.

Larry Fields guided me in my SAO vehicle into the approximate location where the traffic stop had occurred. It was in the parking lot area of Manor House Apartments in front of Building 200. I took photographs of the Apartment Complex and parking area where the traffic stop occurred.

I also attempted to make contact with the residents in Building 200 that may have witnessed the traffic stop, as well as the management of the property to determine if there was any on site video equipment. The manager advised me that there was no video equipment installed at the complex, and most of the neighbors either didn't see anything or were not home.

I was able to make contact with Marissa Berry in Apartment # 201 upon later returning to Building 200. She advised me that she did recall the traffic stop in the late evening of 05/21/13 because the police blue lights were very bright inside her apartment. She recalled looking out the window to see what was going on, but didn't go outside. She stated that her boyfriend Larry Barrett was present as well, and she recalled him going outside to smoke a cigarette to observe what was going on. I left her my card and asked her to have Mr. Barrett contact me. Marissa Berry can be reached at (863) 514-6717, and Larry Barrett can be reached at (863) 844-2198.

On the afternoon of 06/05/2013, I received a call from Larry Barrett. He advised me that he did recall witnessing the traffic stop in front of his apartment on the evening of 05/21/2013. He stated that upon seeing the police lights, he went outside to observe what was happening. He recalled being outside for approximately 2-3 minutes. He stated that during the time he was watching the traffic stop, the driver and the passenger remained inside their vehicle. He stated he did not hear any of the conversation between the occupants or the two LPD officers. In his

estimation, it was a routine traffic stop and nothing unusual occurred for the short time he watched. He stated that after watching for a short period of time he went inside and went to bed.

On 06/06/2013, the evidence which had been obtained from the victims, witnesses, and the LPD was carefully reviewed. Later that afternoon an Investigative Subpoena was prepared commanding Officer Jeremy Williams to appear before Investigators and Prosecutors at the SAO on 06/07/2013 at 1:00 p.m. Investigator Beverly Cone and I personally served Officer Williams at his residence on 06/06/2013.

On 06/07/2013, Officer Jeremy Williams did respond to the SAO as commanded in his subpoena. Officer Williams was accompanied by his P.B.A. Attorney David Dee. Officer Williams was placed under oath and a taped statement was obtained from him. Investigator Beverly Cone, ASA Brad Copley, and Attorney David Dee were present while I interviewed Officer Williams. An initial statement was obtained from Officer Williams regarding his recollection of the traffic stop without aid. The dash cam video which was captured from Officer Fetz' car was then played. The questioning of Officer Williams continued throughout the video as it played. The following is a synopsis of his statement, but the audio of the interview should be reviewed for complete accuracy:

- Officer Williams knows Officer Fetz, but they are not on the same squad.
- Officer Williams responded to the scene of the traffic stop at 400 W. Beacon St, Lakeland, FL on the evening of 05/21/2013 to back-up Officer Fetz.
- Officer Williams was shown DAVID printouts of Zoe Brugger and Larry Fields, but could not positively say that they were the individuals that were pulled over the night of 05/21/2013.
- Officer Williams did compare Zoe Brugger's DAVID printout to the Uniform Traffic Citation that had been written by Officer Fetz that night. He confirmed it was the same person based on the records.
- Officer Williams was asked about why the audio was not accompanied with the video of the stop. He did not know why Officer Fetz did not activate his lapel microphone. When pressed on the subject, Officer Williams did say that it is not uncommon for officers to not activate the audio equipment during traffic stops.
- Officer Williams did not hear the initial conversation between Officer Fetz and the occupants. He did note that the passenger Larry Fields was sweating and acting very nervous.
- Officer Williams stayed by the vehicle watching Larry Fields when Officer Fetz decided to get Zoe Brugger out of the car.
- Officer Williams did not see or hear the conversation with Officer Fetz & Zoe Brugger as she was instructed to pull her pockets inside out and pull her bra out from her breasts and shake. He stated that he didn't recall being officially trained on this technique, but knew it was a practice of LPD officers trying to locate weapons, drugs, or contraband on individuals.
- Officer Williams was standing behind and to the side of Officer Fetz when he took Larry Fields out of the car and searched him. Officer Williams observed Officer Fetz search the inside of Mr. Fields' pockets and wallet. He did not hear Officer Fetz ask or Larry Fields give consent for his person to be searched.

- When asked if Officer Fetz went beyond the permissible “pat down” of an individual for officer safety when he searched Fields, he responded yes.
- Officer Williams was asked when it was permissible to search a vehicle at a traffic stop. He stated that it could be done when an officer has probable cause to believe that it contains illegal contraband or fruits of a crime, with consent, or after an arrest when conducting a vehicle inventory prior to it being impounded.
- Officer Williams stated that in order for a vehicle to be towed after an arrest, it had to be first approved by an LPD supervisor. While inventorying a vehicle which will be impounded, the trunk and its contents are also searched and documented. This did not occur during this traffic stop. Officer Williams stated that the vehicle search conducted by Officer Fetz was not a “vehicle inventory search”.
- He also stated that there was not probable cause established that would have allowed for a vehicle search at this stop.
- He stated that at some point he heard Zoe Brugger consent to a vehicle search. He also stated that he and Officer Fetz heard her change her mind and remove her consent to search. This verbal withdraw of consent was prior to Officer Fetz commencing the vehicle search.
- Officer Williams was standing next to Ms. Brugger and Mr. Fields while the vehicle search was conducted by Officer Fetz. He said that Ms. Brugger and Mr. Fields were talking about not wanting the search done. He heard Ms. Brugger saying that she didn’t want Officer Fetz searching the car, but didn’t know who she was addressing. He again stated that Ms. Brugger did withdraw consent to search the vehicle at least one time that was heard by Officer Fetz.
- Officer Williams looked into the car from the outside to see what was in plain sight when posted near the car, but he never went inside. He wasn’t sure why Officer Fetz continued to search the car after being told to stop by Ms. Brugger. He didn’t say anything or try to stop Officer Fetz because it wasn’t his traffic stop.
- Officer Williams stated that no drugs or contraband were found on either of the occupant’s person, or inside the car.
- When Officer Williams was asked if this was a proper search, he stated no.
- Officer Williams stated after Officer Fetz concluded the search, he suggested to Officer Fetz that he should take Ms. Brugger to jail and tow the vehicle. He stated that Officer Fetz told him he was not going to do that because she just had a baby.
- Officer Williams said that Officer Fetz told Ms. Brugger that he was going to take her to the Bartow Jail and that they have an X-ray scanner to detect drugs and contraband. Officer Williams said that Officer Fetz was doing this as a bluff to see if he could get Ms. Brugger to admit to having drugs.
- After Ms. Brugger persisted that she didn’t have drugs or contraband, Officer Fetz gave her a criminal traffic citation for No Valid DL. Officer Fetz instructed Ms. Brugger to park the car and have someone else come to pick it up.
- Officer Williams then cleared the scene.

Officer Dustin Fetz was given an invitation through his P.B.A. Attorney, Debra J. Gell, to appear before members of the State Attorney’s Office to give a voluntary statement regarding this traffic stop and his actions on the evening of 05/21/2013. On 06/12/2013 at approximately 9:45 a.m., Officer Fetz came to the the SAO and met with myself, Investigator Beverly Cone, ASA Brad

Copley, and ASA Nickolas Zbrzezny for a non-custodial interview. Present with Officer Fetz were his Attorneys Debra J. Gell & Nicholas J. Fiorentino. Below is a synopsis of Officer Fetz' statement, but the audio of the interview should be reviewed for complete accuracy:

- On the evening of 05/21/2013, he pulled over Zoe Brugger and Larry Fields as a result of their driver's side headlight being out.
- He stated that he recently transferred to patrol from the LPD Street Crimes Unit. Street Crimes Officers are not issued any audio and video equipment in their vehicles despite routinely conducting traffic stops.
- He left his audio equipment hanging up inside his patrol car and did not have it on during this stop. He is not used to wearing it. It is the LPD's policy that he utilizes both the issued audio and video equipment during all traffic stops.
- They came to rest in the parking lot of an apartment complex at 400 W. Beacon St, Lakeland, FL.
- Zoe Brugger provided him with a D6 Clearance paper when he asked for her DL.
- He asked if he could conduct a search of the vehicle. Zoe Brugger told him no. He makes it a practice to ask everyone he pulls over for their consent to search their car.
- He went back to his patrol vehicle and ran an FCIC/NCIC report on Zoe Brugger. It confirmed that she did not have a valid DL.
- He re-approached Zoe Brugger and asked her to step out of the vehicle. In his mind, Zoe Brugger was under arrest. However, he did not advise her that she was under arrest. He stated that she would not have known she was under arrest at this point.
- He was suspicious that there were drugs in the car based off of some irregular movement from the passenger Larry Fields.
- He asked Zoe Brugger if she had drugs on her person. He then asked her if she would pull her pockets inside out and to pull her bra out from her shirt. No drugs or contraband was found.
- He couldn't recall ever being formally trained on this technique at the police academy or through the LPD. It is a practice that he believed other officers use as well, but one that he has utilized to find drugs on individuals in the past. He also did not think it was approved in LPD policies.
- He stated that this search technique was performed for the purpose of finding drugs. He did not believe Ms. Brugger to be a threat to his safety nor did he have reason to believe she was in possession of a weapon.
- He instructed Ms. Brugger to sit on the curb. He did not place hand cuffs on her and did not tell her she was under arrest.
- He then made his way to the passenger side of the vehicle and had Larry Fields step out of the car.
- He asked Mr. Fields for consent to search his pockets which he said he granted.
- He then searched the inside of Mr. Fields pockets and the contents of his wallet. No drugs or contraband was found.
- He then asked Larry Fields to sit on the curb next to Zoe Brugger.
- He then began to conduct an inventory search the vehicle. He believed that he had a right to search the car incident to an arrest and as an inventory process prior to towing a car.
- He still had not told Ms. Brugger she was under arrest at this point.

- He thinks at some point Zoe Brugger may have given him consent to search the vehicle, but he was not certain. If she did, he never heard her tell him not to search the car.
- He stated that it is LPD policy to first contact a supervisor to obtain permission to tow a vehicle. He never did this and is not sure why he didn't follow policy.
- He is required to fill out an inventory sheet when towing a vehicle. He did not have an inventory sheet with him while conducting the search. He left his inventory sheet in the car. He was going to catalogue things by memory.
- He did not search the trunk of the vehicle despite it being on the inventory sheet. He is not sure why he didn't search the trunk other than to say it is not a common practice for him to do so.
- He did not find anything illegal in the car.
- At some point he changed his mind to take Zoe Brugger to the jail. He said this was as a result of her just having a baby. He was trying to show some compassion.
- He issued her a criminal traffic citation with a Notice to Appear Court date.
- He recalled Officer Williams suggesting that he take Zoe Brugger to jail and to tow the vehicle.
- He was not certain about the search and seizure laws, or his agency's policy on the matter.
- He has not had any updated training on the subject of search and seizure since the police academy.
- Looking back on the incident he recognizes that he was overzealous in his attempt to locate illegal drugs or contraband in the car.
- He has learned from this ordeal and committed to not making these mistakes again. He intends on always using his audio and video equipment in the future, to study and learn the applicable search and seizure case law, and study LPD policies on arrest, search, and towing policies.
- In the future he will either follow through with an arrest and vehicle tow with an inventory sheet, or not search the vehicle at all unless he has probable cause or absolute consent from the driver exists.

Investigative Findings:

On evening of 05/21/2013, Officer Dustin Fetz' was operating a patrol vehicle that was equipped with state of the art audio and video equipment. He stated that it is LPD policy for this equipment to be activated on all traffic stops. His justification for not utilizing his microphone was that he just transferred from the LPD Street Crimes Unit and is unaccustomed to having this equipment. He stated that LPD Street Crimes Unit Officers and Narcotics Detectives are not issued audio and video equipment in their patrol cars despite conducting frequent traffic stops during the performance of their duties. Officer Fetz and Williams both indicated that there are many members of the LPD that don't use this equipment even when it is issued. This practice needs to be rectified to ensure the integrity of all traffic stops, adherence to proper police procedure & conduct, and to provide the officers and the LPD a level of protection from false allegations. Utilizing the proper equipment will avoid the charge that the officers really don't know how to handle a traffic stop. Had the audio equipment been utilized, there would be little to no speculation as to what occurred during that traffic stop that evening.

The headlight of the vehicle that was driven by Zoe Brugger on the evening of 05/21/2013 was working at the time when I took photographs of the car. However, it was independently verified by Angela Clark that the headlight had an electrical short in it and was known to cut on and off. Based on this information, it is believed that Officer Fetz did have probable cause to initiate a legal traffic stop on Zoe Brugger that evening due to a front headlight being out.

Although Zoe Brugger was in the process of having her Florida Driver's License reinstated, on the night of 05/21/2013 she did knowingly drive without a valid DL. This is a criminal traffic law violation, and Officer Fetz had the legal authority to affect an arrest upon Ms. Brugger. Officer Fetz' documented action was that he placed Zoe Brugger under arrest, issued her a criminal traffic citation with a mandatory court appearance, and released her at the scene.

The witness statements and documented police actions conducted at this traffic stop indicate that Officer Fetz was suspicious that Zoe Brugger and Larry Fields were in possession of illegal drugs. However, there was little to no evidence to support this suspicion. It is certain that probable cause did not exist for an exhaustive and intrusive vehicle search to be conducted.

Officer Fetz' suspicion led him to pull Zoe Brugger from the vehicle to separate her from Larry Fields. In an attempt to confirm his unsupported suspicion, Officer Fetz had Ms. Brugger perform demeaning acts in which she had to expose her abdomen and pull her bra away from her breasts. This act was not documented in Officer Fetz' report, nor did the video demonstrate that there was any reason to believe that Zoe Brugger possessed a weapon or posed imminent danger to the officers which would have allowed a pat down search (frisk).

In fact, Officer Fetz' statement was that he did not view Ms. Brugger as a threat, nor did he have any suspicion that she possessed a weapon. He made a request for her to turn her pockets inside out, to pull her bra away from her breasts, turn it out, and shake in an effort to locate illegal drugs or contraband. Officer Fetz stated that he has utilized this technique in prior stops and has been successful in finding drugs by doing so. Officer Fetz stated that this is a known technique that is used by some LPD officers, but cannot recall ever formally being trained to do this. In this instance, Officer Fetz' requests and actions were extreme and were not supported by articulable facts which would have even given him reasonable suspicion that she was in possession of illegal drugs.

Officer Fetz' statement that he was completing a vehicle inventory to tow and impound the vehicle after a lawful arrest is suspect. At some point after the search had been conducted, Officer Williams suggested that Officer Fetz needed to transport Ms. Brugger to jail and have the vehicle towed to justify the search. Officer Fetz told Officer Williams that he was not going to do that because she just had a baby. Whether this was the reason for this use of discretion, or if it was simply because his search did not locate illegal drugs cannot be determined. Nonetheless, Officer Williams was uncomfortable with the vehicle search as he stated that he and Officer Fetz were in close proximity to Ms. Brugger when she withdrew consent to search, and he did not view it as a vehicle inventory search. Officer Williams said he didn't feel comfortable intervening due to it being Officer Fetz' traffic stop.

The stated facts are that Officer Fetz did not follow LPD policy and call for a supervisor's approval to tow the vehicle, he did not have an inventory sheet with him during the search, he did not open and inventory the contents of trunk, and he did not call for a tow truck. Additionally, Officer Fetz' stated the only time he indicated to Ms. Brugger that she was going to jail is when, after all of these other efforts had failed to yield any illegal drugs, he attempted a ruse telling her that she would be subjected to an x-ray machine that could detect contraband kept in her private areas. This was a last ditch effort to get her to turn over any drugs. When this too failed to yield any drugs, he wrote her a criminal Uniform Traffic Citation with a Notice to Appear and told her that he had scared her enough. The evidence shows that Officer Fetz actions violated search and seizure laws and the LPD policies that he is governed by.

The actions of Officer Fetz' were egregious and went beyond the police actions that are permissible under the law. His actions violated the constitutional rights afforded to Zoe Brugger. However, the fact that he did have probable cause to conduct a lawful traffic stop and affect an arrest prevents his action from rising to a chargeable criminal offense under Florida State Statutes. This information will be turned over to the Lakeland Police Department for internal review and action.

Submitted By:
Investigator Mike Brown

OFFICE OF THE STATE ATTORNEY, TENTH JUDICIAL CIRCUIT
State Attorney Jerry Hill

Polk, Highlands, and Hardee Counties

Main Office
255 North Broadway Avenue, 2nd Floor
Drawer SA, P.O. Box 9000
Bartow, Florida 33831-9000 • (863) 534-4800
www.sao10.com



Lakeland Branch Office
930 East Parker Street, Suite 238
Lakeland, Florida 33801 • (863) 802-6240

Winter Haven Branch Office
3425 Lake Alfred Road 9, Gill Jones Plaza
Winter Haven, Florida 33881 • (863) 401-2477

INVESTIGATIVE SWORN STATEMENT

Defendant: DUSTIN J FETZ
Case #: 53-2013-FA-001282-01XX-CA
Agency:
Investigator: Mike Brown

Co-Defendant:
ASA: BRADFORD H COPLEY
Agency Case #:
Date: 6/14/2013
Original

Inv. Mike Brown

Investigator, Mike Brown, Badge NO:12

Signature of Affiant

June 14, 2013

Date

Date

Sworn before me this 14 day of June, 2013.

Samuel B. Cone SAO 3
Signature of Law Enforcement Officer

Date

6/14/13

** Image Type: DISCOVERY, Sub-type: REPORTS **